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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/827,177

Applicant(s)

SCHLESENER ET AL.

Examiner

Kenneth R. Hartmann

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-22,24-42 and 44-62 is/are rejected.
- 7) ☐ Claim(s) 3,23 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**Detailed Action**

***Claim Objections***

1. Claims 1-62 are objected to because of the following informalities: the term "transport type" is vague. It is suggested that the applicant change "type" to ---format--- to make the claim more understandable. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 61 and 62 are rejected under 35 U.S.C. 101 because they disclose a computer software product per se. It is suggested that applicant use the acceptable language of: "a computer readable medium" encoded with "a computer program," "software," or "computer executable instructions." For example, claim 61, lines 1 and 2, should be replaced with ---A computer readable medium encoded with software for executing [...]---.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 2, 4, 5, 7, 10, 12, 13, 16, 18, 21, 22, 24, 25, 27, 30, 32, 33, 36, 38, 41, 42, 44, 45, 47, 50, 52, 53, 56, 58, 61, and 62 are rejected under 35 U.S.C. 102(a) as

being anticipated by Ram et al (US 6,625,258), further referred to as "Ram" in this office action.

For claims 1, 21, 41, and 61, Ram discloses a communications system and method comprising a call control system (Virtual assistant system, VAS), and a gateway coupled to the call control system (G/W, connects through packet network to VAS) and coupled to a first network node and second network node (video phone 224 and audio phone 226) wherein the gateway interworks first communications to a first transport type for the first network node and interworks second communications to a second transport type for the second network node (one node sends video type and audio type, the other sends only audio type); the gateway, responsive to a status change associated with the first network node, transfers a first update message to the call control system wherein the first update message indicates the status change associated with the first network node and the first transport type (user chooses to update status of the user profile and the location of this node on the reach list; depending on the type of phone used that is being updated on the reach list, communication occurs between nodes and the VAS via the gateways, see column 14, lines 20-39 and column 15, lines 21-35); the call control system, responsive to receiving the first update message from the gateway, determines a first priority (preference of location on the reach list) associated with the first update message based on the first transport type (wireless telephone, wired telephone, email, fax, video phone, etc are placed at certain points on the reach list, thus establishing a priority based on the transport type that the VAS places on a reach list; e.g. a user wants a call directed to the wireless telephone first, then wireline, then email or fax; the

priority associated with the update message reads on the preference of the user; see Figs 1 and 2 and column 14, lines 20-39 and column 15, lines 21-35).

For claims 2, 22, 42, and 62, Ram discloses a communications system and method as described above wherein the gateway, responsive to a status change associated with the second network node, transfers a second update message to the call control system wherein the second update message indicates the status change associated with the second network node and the second transport type, and wherein the call control system, responsive to receiving the second update message from the gateway determines a second priority associated with the second update message based on the second transport type (the same rejection above applies to this claim, as the second node, audio phone, can send the same type of update message to be placed at the preferred spot on the reach list, see Figs 1 and 2 and column 14, lines 20-39 and column 15, lines 21-35).

For claims 4, 5, 24, 25, 44, and 45 Ram discloses a communications system and method as described above, wherein the call control system updates a routing table (reach list) based on the second update message and/or the first update message (the preferred location would be set a certain spot on the reach list, and the controller would sequentially go through the numbers on the reach list, see column 15, lines 11-16).

For claims 7, 13, 27, 33, 47, and 53, Ram discloses a communications system and method as described above, wherein the gateway interworks the first communications and/or the second communications from internet protocol (IP) to the first transport type and/or the second transport type (gateway server, 310A,

communicates between IP and several other protocols, see Fig. 3 and column 8, lines 36-48).

For claims 10, 16, 30, 36, 50, and 56 Ram discloses a communications system and method as described above, wherein the first transport type and/or the second transport type comprises signaling system 7 (CCS-7 or common channel signaling system 7, see column 8, lines 45-48).

For claims 12, 18, 32, 38, 52, and 58 Ram discloses a communications system and method as described above, wherein the first transport type and/or the second transport type comprises time division multiplexed (TDM) (see column 8, lines 36-38).

***Claim Rejections - 35 USC § 103***

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 9, 11, 14, 15, 28, 29, 31, 34, 35, 48, 49, 51, 54, and 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Ram (US 6,625,258).

For claims 8, 9, 11, 14, 15, 28, 29, 31, 34, 35, 48, 49, 51, 54, and 55 Ram discloses the system and method as described above. Ram does not specifically disclose wherein the first transport type and/or the second transport type comprises asynchronous transfer mode (ATM), frame relay transport, or packet over SONET (PoS). However, it would have been obvious to one of ordinary skill in the art to modify the networks of Ram to use ATM, frame relay transport, or PoS since he notes that packet switched networks may be used, in order to accommodate future technologies (see column 7, lines 8-12). The motivation for modifying these networks to be able to use ATM, frame relay transport, or PoS would be to use current technology that would be faster and allow for more bandwidth for communication.

8. Claims 6, 19, 20, 26, 39, 40, 46, 59, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ram (US 6,625,258) in view of Park et al. (US 2004/0148297).

For claims 6, 20, 26, 40, 46, and 60, Ram discloses the system and method described above. However, Ram does not disclose the routing table as a telephony routing over internet protocol (TRIP) table. However, Park et al. does disclose the use of TRIP services (see paragraph 20, lines 6-11). Therefore, it would have been obvious to one of ordinary skill in the art to modify the table of Ram to be a TRIP table. The motivation for using the TRIP table would be to use more current technology and allow for use with any signaling protocol.

For claims 19, 39, and 59, Ram in view of Park et al. disclose the method and systems above. Neither Ram nor Park et al. disclose a "TRIP-lite" enabled gateway. However, it would have been obvious to one of ordinary skill in the art to modify the gateway of Park et al. to be a "TRIP-lite" enabled gateway since the gateways are already TRIP enabled and "TRIP-lite" is simply a "scaled down version of TRIP." The motivation for this modification would be to use less processing time to determine routing.

#### ***Allowable Subject Matter***

9. Claims 3, 23, and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims further limit the claims to show that the priority is for the message itself, not "associated with the message."

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanimoto (US 2004/0109437) is cited to show a priority system based on the type of communication used. Naranjo et al. is cited to show a VoIP network connected to several different types of networks with routing based on call type and priority. Gallant (US 2002/0167946) is cited to show a FindMe method within a VoIP network.



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Art Unit: 2619

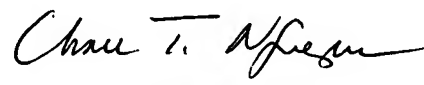
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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Hartmann whose telephone number is 571-270-1414. The examiner can normally be reached on Monday - Thursday, 10 - 3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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